

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

RYAN ELIZABETH BARNETT)
)
Plaintiff,)
)
v.) Case No. CV415-213
)
SOUTH STATE BANK,)
)
Defendant.)

REPORT AND RECOMMENDATION

Plaintiff filed this Title VII case and paid the Court's filing fee on July 31, 2015. Doc. 1. However, he¹ sought no summonses for Fed. R. Civ. P. 4 service. Nor, apparently, did he make any effort to effectuate service upon defendant within the 120 days that Rule 4(m) demands.² The Court thus directed him to show, by December 22, 2015, why his case should not be dismissed for violating Rule 4(m). Doc. 3.

Having failed to comply, this action should be dismissed for

¹ The Court is guessing at plaintiff's gender.

² Under Fed. R. Civ. P. 6(a)(1)(A), the first day (July 31, 2015) is excluded from the 120-day period (now 90 days, per December 1, 2015 amendment to this rule), which placed Barnett at Sunday, November 29, 2015, as his Rule 4(m) deadline. But since Rule 6(a)(1)(C) says to exclude weekend days as an "end day," he had until Monday, November 30, 2015, to serve defendant. He did not.

violating Rule 4(m), *Johnson v. Proctor*, 620 F. App'x 890, 891 (11th Cir. 2015) (affirming Rule 4(m)-violation dismissal), and for lack of prosecution. *See L.R. 41(b); see Link v. Wabash R.R. Co.*, 370 U.S. 626, 630-31 (1962) (courts have the inherent authority to dismiss claims for lack of prosecution); *Mingo v. Sugar Cane Growers Co-op*, 864 F.2d 101, 102 (11th Cir. 1989); *Jones v. Graham*, 709 F.2d 1457, 1458 (11th Cir. 1983); *Floyd v. United States*, No. CV491-277 (S.D. Ga. June 10, 1992).

SO REPORTED AND RECOMMENDED, this 4th day of January, 2016.



UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF GEORGIA